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Trappers Association Challenges Ballot Initiatives

Editor's Note: This article is derived from a Guest Editorial by Stephen S. Boynton, published in the July / August issue of American Trapper. Mr. Boynton is Washington D.C. Counsel for the National Trappers Association. Reprinted with permission of NTA.

The National Trappers Association has initiated lawsuits in Arizona, California, and Colorado to challenge recent ballot initiatives that have banned trapping with the use of the leghold trap. These legal challenges are being undertaken in conjunction with state trapper affiliates and with other sportsmen's and conservation groups.

The basis for this legal challenge is the "common law public trust doctrine," stating that government has a non-delegable duty to protect, manage, and conserve renewable wildlife resources for all the people that cannot be surrendered to a determination of a popular vote. This doctrine traces its ori-

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gin to the Magna Carta in 1215 when King John was forced to relinquish various private fishing rights the Crown had granted to dukes, barons, earls, and others. The point made was that the Crown held the resource for the benefit of all the people (i.e., the public) and could not grant *private rights* to control, manage, or hold renewable wildlife and marine resources.

This concept was recognized in the United States in 1842 in the Supreme Court where a landowner in New Jersey sought to exclude all others

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Troubling Horizon for NADCA?

Robert H. Schmidt, President, NADCA

The National Animal Damage Control Association is an organization of volunteers. The officers, regional directors, newsletter editors, and committee members, past and present, have volunteered their time and energy into making the NADCA an organization representing the wildlife damage management profession. It has represented us since it was formed by a dedicated group in 1979.

During that 20 year period since 1979, membership has gone up and down, dues have gone up (minimally), and the production of **THE PROBE** has continued. Topical and policy issues have come and gone, as stated so eloquently in the June 1999 issue of **THE PROBE** by editor Robert Timm. Our membership base has broadened from mostly employees of state and federal wildlife agencies to nuisance wildlife control practitioners and others. We are more diverse than we have been in the past.

Over the past few years, membership has been in a decline. A significant number of truly valuable colleagues and NADCA volunteers have retired, and replacements are not stepping up to the plate. I wish I had the energy of George Rost, or Terry Salmon, or Jim Forbes.

In the meantime, other organizations continue to compete with NADCA for both membership and activities: The Wildlife Damage Management Working Group of The Wildlife Society, the newly formed National Nuisance Wildlife Control Operators Association and the many state nuisance wildlife control associations, and even Wildlife Control Technology magazine with its annual shortcourse.

Although NADCA has seen many changes, I sense a crisis for this organization in the near future. Membership is dangerously low. Enthusiasm seems lagging. In his June 1999 essay, Editor Timm stated in regards to NADCA's future, "Maybe it's time again for renewal, for changes in direction." He noted that NADCA had changed in the past, and that there may be a different future. I agree, and remind you to consider nominating yourself for a leadership position in our upcoming election.

Fundamentally, NADCA exists because we fill a need for you, the membership. You may desire membership as a way to read Stephen Vantassel's excellent reviews of videos and books. Perhaps you

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CALENDAR OF UPCOMING EVENTS

Sept. 6-8, 1999: Second European Vertebrate Pest Management Conference, Technical University of Braunschweig, Germany. The conference will address fundamental aspects of biology, methodology, legislation, and the role of manipulation of habitats, behaviour and populations in vertebrate pest management. The conference will be in English and will be attended by people from Europe and North America, and it is anticipated that a Proceedings will be published. The conference program and registration info are available at the university's web site: http://www.tu-bs.de/zfw/vertebrate_pestman/page.htm. For further information, contact via email: d.kaehler@tu-bs.de.

September 7-11, 1999: 6th Annual Conference of The Wildlife Society, Austin, TX. Conference will include the following symposia: "Educating the Public on Wildlife Damage Management Issues" (1/2 day); "Balancing Social and Ecological Factors in Management of Urban/Suburban Wildlife" (1/2 day); and "Bats and Humans: Education, Conservation, Controversy and Conflict" (1/2 day). Contact The Wildlife Society national office, phone (301) 897-9770, email lorraine@wildlife.org, or visit website <http://www.wildlife.org>.

September 24-26, 1999: Impact of White-Tailed Deer on the Biodiversity and Economy of Pennsylvania, Radisson Hotel, Harrisburg, PA. Conference will provide a complete overview of current state policy, the extent of the problem, and the policies of other jurisdictions; a review of practices used to control damage; proposals for amelioration; and opportunities to view damage first-hand in the field. Sponsored by Pennsylvania Chapter of the Sierra Club, Audubon Society of Pennsylvania, and the Western Pennsylvania Watershed Protection Program of the Heinz Endowments. For information, call (717) 763-4981.

Oct. 13-14 (Denver CO); Nov. 1-2 (Woodbridge, NJ); Nov. 4-5 (Orlando, FL) 1999: Bird Barrier / Van Waters & Rogers Bird Control Classes. For further information contact persons for the specific class locations are: Denver, Randy Dadrill at (313) 388-5651; Woodbridge, Greg Ten Hoeve at (732) 636-4660; and Orlando, Jim Watson at (407) 843-2611.

Dec. 5-8, 1999: 61st Midwest Fish & Wildlife Conference, Chicago, IL. Conference theme "Pathways to the Future." For more information, contact Larry A. Jahn, Steering Committee Chairperson, phone (309) 298-1266 or email la-jahn@wiu.edu.

February 7-9, 2000: Sixth Annual Wildlife Control Instructional Seminar, Imperial Palace, Las Vegas, Nevada. Sponsored by W.C.T. (Wildlife Control Technology). For more information, phone Lisa at (815) 286-3039, email wctech@ix.netcom.com or visit website <http://www.wctech.com>.

March 6-9, 2000: 19th Vertebrate Pest Conference, Mission Valley Hilton, San Diego, CA. One-day field trip (Mar. 6) plus three days of plenary and concurrent sessions covering diverse topics including rodent, bird, and predator research and management. To receive program and pre-registration materials, contact Dr. Terry Salmon, Wildlife Fish & Conservation Biology, UC Davis, One Shields Ave., Davis CA 95616-8571, phone (530) 754-8751, fax (530) 752-4154, or visit web site: <http://www.davis.com/~vpc/welcome.htm>

New Bird Cartridge Available

Reed-Joseph International recently announced the availability of CAPA long range pyrotechnic cartridges. These new cartridges, manufactured by Lacrox/Ruggieri of France, meet a need for a safe, reliable, loud, long range bird scaring explosive cartridge. Characteristics of the cartridge's performance are as follows:

Range:

At 25° elevation, 985 feet, explosion height - 30 ft.

At 50° elevation, 655 feet, explosion height - 490 ft.

Sound Output: 150 decibels at 50 feet

Foreign Object Debris: None

Launch Device: distress flare launcher (standard .4 calibre pistol, fitted with a removable liner)

The manufacturer, Ruggieri, has been making pyrotechnics since 1739 and has an outstanding world-wide reputation for high quality military and civilian pyrotechnics. Cost of the cartridges is \$10 per round, shipped in quantities of 25 rounds per box (\$250 per box). The .4 caliber signal flare launcher is priced at \$210.

For further information on this product, contact Reed-Joseph International Co., P.O. Box 894, Greenville, MS 38702, phone (800) 647-5554, fax (662) 335-8850, or visit web site <http://www.reedjoseph.com>

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Your contributions of articles to *The Probe* are welcome and encouraged. The deadline for submitting materials is the 15th of the month prior to publication. Opinions expressed in this publication are not necessarily those of NADCA.

Hazards of Deer Relocation: Mixed Success

Missouri's first experiment with trapping and relocation to control suburban deer numbers has not gone as smoothly as hoped, but the trial is yielding information that will help other communities decide how to deal with similar problems. Town and Country officials sought and received permission to have deer trapped and removed by a private contractor at city expense. The Missouri Department of Conservation is monitoring the program.

Between late December 1998 and mid-February 1999, 51 female deer and 29 male deer were captured with nets and taken from Town and Country to a conservation area south of St. Louis. The city is attempting to remove 122 does each year for the next two or three years to help reduce its deer population—currently estimated at approximately 600—by half. After that, smaller removals will be needed periodically to maintain the herd at a level where the risk of deer-vehicle accidents, browsing on landscape plantings and other deer-related concerns are acceptable to city residents.

The Conservation Department has tracked the movements of relocated deer with radio transmitter collars. By late February 19% of the relocated deer had died of capture myopathy. Town and Country undertook the trapping and relocation program because a majority of citizens surveyed did not want deer killed to solve the overpopulation problem. The cost of deer trapping and removal so far has been more than \$350 per deer. The private contractor who conducted the first round of deer trapping has withdrawn from the project. Town and Country has been unable to find another contractor willing to do the work."

Personnel from MDC performed necropsies on dead relocated deer and forwarded tissues to SCWDS for examination. SCWDS diagnosticians detected capture myopathy lesions in 16 of 17 deer examined. Several of the deer submitted for necropsy had case histories indicative of bobcat predation, and it was likely that capture myopathy in these deer caused them to be more susceptible to predation.

Capture myopathy is a complex degenerative disease of skeletal muscle associated with the increased muscular exertion and over stimulation of the nervous system as a result of the capture, restraint, and transportation of animals (see SCWDS BRIEFS Vol. 9, No. 4). Illness and death may result due to disruption of normal circulation, muscle tissue damage, and electrolyte imbalance. Affected animals may show muscle tremors or muscle rigidity, weakness, hyperthermia, respiratory difficulty, collapse, and acute death. Animals that do not die acutely may succumb later due to inadequate oxygen supply to the kidneys and from toxic muscle breakdown products.

The following suggestions may help reduce the occurrence of capture myopathy:

- *Capture crews should be comprised of well-trained personnel.*

- *Enough people should be on hand to work the animals quickly and effectively; however, extraneous personnel should be avoided.*
- *Noise and movement should be kept to a minimum.*
- *Blindfolding the animal may help reduce stress.*
- *Use of traps rather than chases will greatly reduce the animal's level of exertion. When chases are necessary, distance and speed must be minimized, and a maximum chase time should be predetermined.*
- *Capture should be avoided on extremely warm days. Wetting the skin of animals captured on warm days may help prevent overheating.*
- *Chemical immobilization can reduce stress to the animal; however, some drugs compound the problems of muscle necrosis and decreased blood pressure. The drug, dosage, and delivery system must be chosen carefully.*
- *The stress of transport may be minimized by proper selection of crates and crate mates. Food and water should be provided to reduce the additional stress of hunger and dehydration.*
- *When captured animals are to be held in captivity, handling should be minimal during the first 2-3 weeks to allow recovery from the initial stress of capture.*

Editor's Note: This article originally appeared in the April issue of *The Missouri Conservationist* (Vol. 60, No. 4), the monthly publication of the Missouri Department of Conservation. The article describes some of the pitfalls encountered when the St. Louis suburb of Town and Country started a capture and relocation program in an effort to reduce the local deer population. The article was subsequently reprinted the April 1999 issue of *SCWDS Briefs*, the quarterly newsletter of the Southeast Cooperative Wildlife Disease Study, College of Veterinary Medicine, University of Georgia, rewritten by Joe Gaydos and John Fischer.



The Editor thanks the following contributors to this issue: Stephen Boynton, John Fischer, Joe Gaydos, J. Barthell Joseph, Robert Schmidt, and Stephen Vantassel. Send your contributions to THE PROBE, 4070 University Road, Hopland, CA 95449.

Book Review: Stephen Vantassel, NWCO Correspondent

"Conibear Beaver Trapping in Open Water" by Wesley Murphey. Lost Creek Books, Eugene, Oregon, 1996. 109 pp. Illustrated. (\$14.00 postpaid)

Mr. Murphey has created a book for which he should be properly proud. This text is not only comprehensive but a remarkably quick read as well.

The book can be divided into four sections. The first section, which covers three chapters, deals with beaver biology, scouting, and equipment. I appreciated the way he addressed beaver biology in a substantive manner without getting bogged down in a large amount of technical jargon. Mr. Murphey discussed how beaver pelt size related to the beaver's age. Here, as in other parts of the book, the author gave me a sense of awe at how much one can learn by simply taking the time to observe nature carefully. In an age of scientism, it felt good to see that there are still a few naturalists around. Special attention was paid to the beaver's oil and castor glands.

Since the book was written for trappers, time was taken to help people scout for beaver. I think that most trappers won't get too much value from this chapter. However, if you are a novice, this chapter will help you systematize what you should look for in scouting for beaver.

The third chapter was, to my mind, especially useful. Although the book only provides instruction for using conibears, Mr. Murphey tells the reader the pros and cons of each of the traps available to catch beaver. Only box traps, like the Hancock and Bailey, are missing from the chapter.

The third chapter was, to my mind, especially useful. Although the book only provides instruction for using conibears, Mr. Murphey tells the reader the pros and cons of each of the traps available to catch beaver.

The second section, which also extends for 3 chapters, could be entitled 'basic conibear sets.' Mr. Murphey goes into great detail how to stabilize conibears and use them in blind and baited beaver sets. The reader will find excellent line drawings and photos that will leave little room for guesswork on how to make these sets. I would caution readers to check their own state regulations on conibear sets. Some states do not permit any part of the conibear to remain above the water line. Nevertheless, Mr. Murphey ought to be commended for the copious and appropriate use of illustrations in this book.

The third section, which covers a total of 5 chapters, is what makes this book especially noteworthy. In these chapters Mr. Murphey teaches the reader how to trap beaver in a variety of environments. He leads the reader from trapping dens to rivers to lakes to marshes. For each habitat, Murphey provides little tips and suggestions to make your trapping more success-

ful and efficient. In particular his recommendation on which channels to trap in large marshes should help any ADC person to speed up his trapping work.

The last section comprises only one chapter. Here, Mr. Murphey relates how to respond to trap-shy beaver. His listing of the four possible responses of trap-shy beaver should be remembered by everyone struggling to catch that last one. He provides some suggestions on preventing trap shyness problems as well as how to catch that wily rodent. Alas, Mr. Murphey correctly informs the reader that sometimes the best response is simply to pull up the traps and come back at a later date. I should also point out that Mr. Murphey seems to agree with Mr. Reichart (see the review of his beaver snaring video, *PROBE* #181, October 1997) that beaver can be spooked by various changes in their environment. I still think that biologists would do well to research this question. I think it would make an impressive thesis question for a Ph.D. degree.

As you can probably tell, I liked this book. The subtitle for this book is 'master beaver trapping techniques,' and in my opinion Mr. Murphey fulfilled the mission of the entire title. The cost of the book is reasonable, and the information is worth the \$14 price tag. He even included an index, which is unusual for trapping books. I give the book a solid "A" rating. If your ADC work uses conibears for beaver, you could benefit from this book. My only criticism of the book is that some of the photos could be clearer than they are. This book doesn't spend noteworthy time on pelt handling. So if you are looking for that information, this book is not for you.

You can obtain your postpaid copy of this book by sending a check for \$14 payable to Lost Creek Books, P.O. Box 50185, Eugene, OR 97405 (no credit card sales at this time). Dealer inquiries are also welcome. You can reach Mr. Murphey at (541) 746-0505.

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Trappers Association

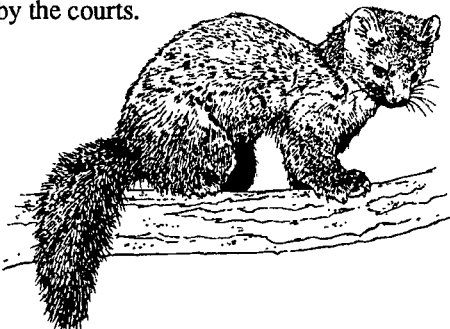
from taking oysters from mudflats on the Raritan River on the grounds that his title could be traced back to a land grant from King Charles II to the Duke of York who, in turn, further conveyed the proper to where the landowner was the successor in title. The Court held that "dominion and property in navigable waters and lands under them [were] held by the King as a public trust," citing the Magna Carta. Consequently, under the public trust doctrine the King did not have the power to abridge the right of fishing.

In the Trappers Association actions, each state has approached the issue differently in bringing the matter before the courts. In Arizona, multiple plaintiffs will seek a civil declaratory judgement that the trapping ban is void under the public trust doctrine.

In California, the plaintiffs joined a civil action filed by the Audubon Society to challenge the recent trapping ban initiative. Audubon has taken the position that the ballot initiative is in conflict with the federal Endangered Species Act and that since seven endangered birds are preyed upon by non-native fox that can only be appropriately controlled by the use of the leghold trap, the state provision is pre-empted by the ESA. Regardless of the court's determination on the Audubon legal theory, the public trust doctrine issues will be raised in the trapper portion of the case.

In Colorado, the issue will be pursued in criminal actions where trappers have been (by agreement) cited for using the leghold trap. The defense will be that the constitutional provision banning the trap is in legal conflict with the basic duties, responsibilities, and obligations of government to manage, protect, and conserve the wildlife renewable resources that cannot be delegated to a ballot box determination. Hence, the ballot provision would be void.

It is anticipated that all three cases will have reached the highest court in each state by election time in 2000, when there will undoubtedly be ballot issues on wildlife subjects in some of the twenty-four states that permit such a procedure. If successful, the common law public trust doctrine will block further ballot initiatives on wildlife and fish resource management subjects, thereby saving literally millions of dollars and thousand of hours spent in state campaigns involving such issues. Although the common law public trust doctrine has some age on it, the National Trappers Association and others believe it is still a viable legal concept that should be recognized by the courts.



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NADCA: Troubling Horizon

enjoy the social interactions when members get together at the Vertebrate Pest Conference or the Eastern Wildlife Damage Control Conference. Membership may be your way of publicly demonstrating your commitment to professionalism and a professional voice within the broader wildlife management profession.

Whatever your reason for joining NADCA, whatever your motivation to renew your membership year after year, we are glad you are with us. Thank you for your support, and let me or any of the other officers and regional directors know how we can make NADCA work for you.

How can we make NADCA work for you? If you don't tell us, then we are left with guesswork. Perhaps my sense of crisis is because our guesses are off base. Do we need a new focus? Do we need a new issue? Is NADCA meeting your needs the way it should? Should we seek a merger with another group? Should we publish *THE PROBE* in a different format, more often, less often, or in combination with other publications?

I anticipate the NADCA leadership will be taking a hard look at the issues I've raised. We need your input. Let us know what you think. Let us know what you see on the NADCA horizon. NADCA did go through a crisis in the mid-1980s, and it came out stronger because of it.

Take the time to write, call, or e-mail and tell us what we need to do, what you can do, and how NADCA can be improved. Post your concerns to WDAMAGE. Send a letter to *THE PROBE*. We need and look forward to your letters and your comments.

It is time we faced up to the horizon ahead.

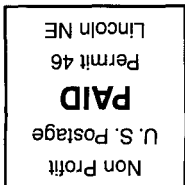
Eastern Black Bear Workshop Held in Massachusetts

The 15th Eastern Black Bear Workshop was held in Lenox, Massachusetts March 28-31, 1999. The workshop theme was "Managing Abundant Black Bears: Needs, Strategies, Difficulties". Copies of the pre-workshop information package are available for \$10, which includes postage and handling. Status reports from 25 eastern states and provinces are included as well as abstracts of the papers and posters presented.

Please send a check or money order for \$10 payable to "Eastern Black Bear Workshop" to the address below. We will be publishing a proceedings with workshop material and selected papers in full, but that likely will not be out for a year. The status report info is current and may be of interest to some of you now.

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Membership Renewal and Application Form

NATIONAL ANIMAL DAMAGE CONTROL ASSOCIATION

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- ☐ Nuisance Wildlife Control Operator
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